HIGH COURT OF URRARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

Chapter VIII, Rule 32(2) (b)

Description of the case

W.P. No. 849 of 2003 (S/S)

1- Smt. Vimla Devi Bisht
2- Smt. Kamla Tiwari

Vs

State of Uttaranchal District Inspector of Schools. Dehradun.

Approved for reporting

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~~Not Approved for Reporting~~

Date of decision: 5.5.2005.

Initials of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 849 of 2003 (SS)

1. Smt. Vimla Devi Bisht
2. Smt. Kamla Tiwari ..... Petitioners

Versus

1. State of Uttaranchal
2. District Inspector of Schools, Dehradun
3. Committee of Management, Bhawani Balika Inter College, Dehradun
4. Principal, Bhawani Balika Inter College, Dehradun. ..... Respondents

Sri M.C. Pant, Advocate for the petitioner
Sri Paresh Tripathi, Standing Counsel for the respondents.

Dated: May 5, 2005

Hon'ble Rajesh Tandon, J.

By the present writ petition the petitioner has prayed for a writ in the nature of mandamus to pay the salary to the petitioner no. 1 in C.T. Grade with effect from 12.1.1987 and in L.T. Grade with effect from 12.1.1992 and to the petitioner No. 2 in C.T. Grade with effect from 18.1.1987 and in L.T. Grade with effect from 18.1.1992.

Briefly stated the facts giving rise to the present writ petition are that the petitioners were initially appointed as Assistant Teachers in B.T.C. Grade in the Bhawani Balika Inter College, Ballupur, Dehradun. The petitioner No. 1 was

appointed on 12.1.1982 and petitioner no. 2 was appointed on 18.1.1982. The petitioners have submitted that after completing five years of service they were entitled for promotion in the C.T.Grade as per Regulation 7(2) of Chapter 2 of U.P. Intermediate Education Act. The petitioners were qualified teachers and they were entitled to be promoted in C.T. Grade after completing five years service and further in L.T. Grade after completing satisfactory service of 10 years. The petitioners have submitted that they made representations before the authorities concerned on 26.11.2002 but no heed was paid to their request, hence the petition.

Counter affidavit has been filed by the respondent no. 4. It has been submitted on behalf of the respondent no. 4 that Bhawani Girls Inter College, Dehradun is providing educational facility from Primary section up to Intermediate but the primary section is not governed by U.P. Intermediate Education Act, while same is under the provision of U.P. Basic Education Act, and as such the provision of section 16 which relates to promotion/appointment of the Teachers in the Intermediate section are not applicable. The respondent no. 4 has further submitted that the teacher applinted in B.T.C. pay scale are not entitled for the promotion to the post of Assistant teacher, L.T. Grade in Intermediate Section.

Regulation 7(2) of Chapter 2 of the U.P. Intermediate Education Act, provides for promotion of a teacher of J.T.C./B.T.C. Grade in C.T. Grade, which reads as under:'

"(2) Where in an institution any teacher working in the J.T.C./B.T.C. Grade has passed intermediate or an equivalent, examination or is a trained graduate and has completed five years service in that grade he shall be promoted in the C.T.

Grade by the Committee of Management [and information of such promotion shall be immediately conveyed to the inspector]"

C.T. Grade was declared to b a dying cadre vide G.O. No. 3299 dated 11.8.1999 published on 19.10.1999, which reads as under:

ष्सनादेष संख्या 3299/15.7/89–1(136) 89 षिक्षा अनुभाग –7 दिनांक 11 अगस्त 89 द्वारा सी0टी0 ग्रेड को डाइंग कैडर घोषित कर दिया गया है। इस प्रकार अषासकीय सहायता प्राप्त उच्चतर माध्यमिक विद्यालयों में सी0टी0 ग्रेड का कोई पद सृजित नही किया जायेगा और न किसी अध्यापक की नियुक्ति की जायेगी शासनादेष सं0 बे0आ0 2–1239/दस–बी0/ 89 बि वे0आ0 अनुभाग दिनांक जून 2ए 1989 के बिन्दु 9 के अनुसार माध्यमिक विद्यालयों के सी0टी0 ग्रेड के ऐसे अध्यापक जो प्रषिक्षित स्नातक उपाधि के साथ एल0 टी0 बी0 एड0 हो तथा उनके द्वारा 10 वर्ष के संतोषजनक सेवा पूरी की जा चुकी हो उन्हें ए0 टी0 ग्रेड दिया जायेगा तथा उनका वेतन निर्धारण उपरोक्त प्रक्रिया के अनुसार एल0टी0 ग्रेड में किया जायेगा। एल0 टी0 ग्रेड में जाने वाले ऐसे सी0टी0 ग्रेड के षिक्षक वेतन निर्धारण की तिथि को चाहे साधारण वेतनमान में कार्यरत रहें हो या सेलेक्षन ग्रेड में, उनका वेतन निर्धारण एल0 टी0 ग्रेड के साधारण वेतनमान में किया जायेगा।

The said G.O. was amended subsequently on 30.11.1992/2.11.1999 and the amended paragraph 12 reads as under:

ष्सनादेष संख्या 3299/15–7/8951 (136) 89 षिक्षा अनुभाग –7 दिनांक 11 अगस्त 89 द्वारा सी0टी0 ग्रेड को डाइंग कैडर घोषित कर दिया गया है। इस प्रकार अषासकीय सहायता प्राप्त उच्चतर माध्यमिक विद्यालयों में सी0टी0 ग्रेड ऐसे अध्यापक जो प्रषिक्षित स्नातक (स्नातक उपाधि के साथ एल0टी0/बी0 एड0 अथवा सी0टी0 ग्रेड में प्रषिक्षित स्नातक जिन्होंने इस वेतनक्रम में पॉच वर्ष की सेवा पूर्ण कर ली हो) तथा उनके द्वारा 10 वर्ष की संतोषजनक सेवा पूरी की जा चुकी हो उनहे एल0टी0 ग्रेड दिया जायेगा तथा उनका वेतन निर्धारण उपरोक्त प्रक्रिया के अनुसार एल0 टी0 ग्रेड में किया जायेगा। एल0टी0 ग्रेड में जाने वाले ऐसे सी0टी0 ग्रेड के षिक्षक वेनत निर्धारण

की तिथि को चाहे साधारण वेतनमान में कार्यरत रहें हों या सेलेक्षन ग्रेड में उनका वेतन निर्धारण एल0 टी0 ग्रेड के साधारण वेतनमान में किया जायेगा।

As will appears from the above Government orders that C.T. Grade was declared dying cadre and those teachers who have already completed five years service in C.T. Grade and 10 years satisfactory service as teacher and has possessed requisite qualifications. The petitioners have submitted that both the petitioners have requisite qualifications and petitioner no. 1 is entitled to get C.T. Grade w.e.f. 12.1.1987 and petitioner No. 2 is entitled to get C.T. grade w.e.f. 18.1.1987 and subsequently L.T. grade after completing 10 years service w.e.f. 12.1.1992 and 18.1.1992 respectively.

The learned counsel for the petitioners relied upon the judgment in the case Smt. Aruna Ghosh vs. State of U.P. & others, 1995 (2) UPLBC 763. In this case it has been observed that C.T. Grade teacher would be entitled to L.T. Grade if he has completed 5 years service in C.T. Grade. The observation is quoted below:

"It is evident that a C.T. Grade teacher would be entitled to get L.T. Grade if he has completed 5 years service in C.t. Grade and 10 years satisfactory service as a teacher and is possessed of the requisite training and other academic qualifications. The petitioner has certainly completed 5 years of service in C.T. Grade but the question whether 10 years of his over all tenure as a teacher during last 10 years had been satisfactory, he would be entitled to L.T. Grade."

The counsel for the petitioners also referred the case Santosh Kumar Singh vs. District Inspector of Schools, Meerut 1996 (2) UPLBEC 1166, wherein it has been observed as under:

"In the counter affidavit filed on behalf of the District Inspector of Schools it is stated in para 6 that only those C.T. grade teachers who have completed five years will be promoted as L.T. grade teacher who are found to be suitable. In my opinion this is a wrong interpretation of the government order dated 3.6.1989. The C.T. grade is now a dying cadre and those who have completed 5 years in C.T. grade automatically become L.T. grade teachers and, there is no question of considering their suitability. Since the petitioner was appointed as C.T. grade teacher on 1.12.84 he completed five years on the post on 1.12.1989 he is entitled to be promoted on L.T. grade respectively from 1.12.1989."

Admittedly C.T. grade has already been declared a dying cadre and, therefore, there is no occasion to direct the respondents to consider the petitioners for promotion in C.T. grade. Further promotional avenue of the petitioners is in L.T. grade if they completed 10 years of satisfactory service and they possesses requisite qualification.

The learned Standing counsel for Uttaranchal State has submitted that the liability of Uttaranchal State to pay arrears of pay to the petitioners is limited only after 9.11.2000 i.e. after creation of State of Uttaranchal. There is no dispute that if the petitioners are granted promotional pay scale from before the date of 9.11.2000, State of U.P. shall be liable to pay the arrears of the same.

The writ petition is, therefore, allowed and the respondents are directed to consider the case of the petitioners for their promotion in L.T. grade, in the light of the observations made above, within six weeks from the date of receipt of the certified copy of this order.

There will be no order as to costs.

Rajesh Tandon, J.

Dated: 5.5.2005
*Dhyani